

REMARKS/ARGUMENTS

In the Final Official Action, claims 1-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over McGINNIS (U.S. Patent No. 7,177,989 B1).

Upon entry of the amendment, claims 1-7 are amended. Claims 1-7 are currently pending for consideration by the Examiner.

Pursuant to M.P.E.P. §714.13, Applicants contend that entry of the present amendment is appropriate because the proposed amended claims avoid the rejection set forth in the Final Official Action, resulting in the application being placed in condition for allowance, or alternatively, the revised claims place the application in better condition for purposes of appeal. Furthermore, the revised claims do not present any new issues that would require any further consideration or search by the Examiner, and the amendment does not present any additional claims without cancelling a like number of pending claims. Accordingly, entry of the present amendment is respectfully requested.

Claims 1-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over McGINNIS. With regard to independent claim 1, the Final Official Action asserts McGINNIS' Figure 1 as teaching a memory (13), and a controller (11 and 12) that provides the host interface between the memory (13) and a data processor. The Final Official Action further asserts that McGINNIS inherently must have a storage section that stores specified management information since the retry number must be stored somewhere. The Final Official Action explicitly acknowledges that McGINNIS does not disclose these components arranged on a memory card. However, the Final Official Action asserts Official Notice that it is notoriously well known to implement many forms of memory as cards.

In responding to the Official Notice challenge provided in Applicants' response filed September 16, 2008, the Final Official Action referred to NISHIZAWA et al. (U.S. Patent No. 7,360,713 B2) as a showing, outside of the rejection, that it is well known to integrate a control portion and non-volatile random access memory onto a card memory.

Applicants submit that it was not known to specifically configure a memory card including Applicants' host interface, controller, and storage section that stores specified management information, in addition to a nonvolatile memory, on a memory card as recited in Applicants' independent claim 1. Applicants further submit that the citation to NISHIZAWA is actually evidence of the non-obviousness of Applicant's claim 1. Applicants submit that NISHIZAWA is not relevant nor persuasive to show what was notoriously well known in the art at the time of Applicants' invention, since NISHIZAWA's underlying PCT Application Publication date is March 30, 2006, NISHIZAWA'S U.S. Patent Application Publication date is September 21, 2006, and NISHIZAWA's U.S. Patent date is April 22, 2008, all of which are after Applicants' International Application filing date of February 2, 2005. Additionally, NISHIZAWA's completion of the requirements of 35 U.S.C. § 371(c)(1), (2), and (4) was not until October 20, 2005, which is also after Applicants' International Application filing date. Thus, Applicants submit that NISHIZAWA actually provides evidentiary support for showing that such features were not known at the time of Applicants' invention.

The Final Official Action also refers to BUSH et al. (U.S. Patent No. 5,828, 583), outside of the rejection, in support of the additional Official Notice assertion that it is notoriously well known to incorporate read error handling into write error handling systems, and to track the frequency of retries in a memory system. Contrary to this assertion, Applicants submit that it was not well known to incorporate the specified storage and use of Applicants' specific

management information for a write operation. Applicants further submit that Applicants' amended independent claim 1 is not directed to a generic read/write error handling system, but rather is directed to a particular arrangement where data in the memory card is written to and read by a host data processor, which would not have been obvious to one of ordinary skill in the art at the time of the invention.

The Final Official Action also asserts that the claims were interpreted broadly in that the conditional disabling language of the claims only requires that one of the two actions is required to meet the claim limitations. The amendment to independent claim 1 has changed the term "or" to and, such that the last paragraph of claim 1 recites that "the controller...to disable the retry function... and to enable the retry function..." so that both actions are positively recited in the claim. Applicants submit that McGINNIS fails to disclose, teach, or suggest these features.

The Final Official Action also asserts that the claims do not specifically recite the writing of specific management information into the memory card storage section. In order to advance the application to allowance, amended independent claim 1 now explicitly recites that the management information includes retry setting information transferred from the host data processor through the host interface and characteristic information specific to the memory card. Applicants submit that McGINNIS fails to disclose such management information, which is readily evident since McGINNIS fails to disclose the use of a memory card.

For at least the reasons discussed above, Applicants submit that independent claim 1 would not have been obvious to one of ordinary skill in the art at the time of the invention in view of McGINNIS. Applicants also submit that claims 2-4, which depend upon claim 1, are patentable for at least the reasons discussed above regarding claim 1, and further for the additional features recited therein. Additionally, Applicants further submit that since claims 5-7

include features similar to those recited in claim 1, claims 5-7 are patentable for reason similar to those discussed above regarding claim 1. Accordingly, Applicants respectfully request that the rejection of claims 1-7 under 36 U.S.C. §103(a) as being unpatentable over MCGINNIS be withdrawn, and an indication of the allowability of claim 1-7 be provided in due course.

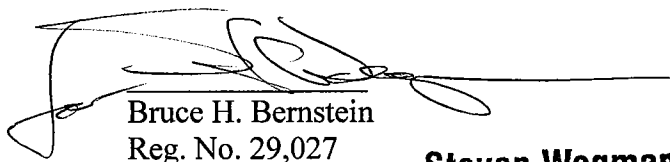
SUMMARY

From the amendments, arguments, and remarks provided above, Applicants submit that all of the pending claims in the present application are patentable over the references cited by the Examiner, either alone or in combination. Accordingly, reconsideration of the outstanding Final Official Action is respectfully requested and an indication of the allowance of claims 1-7 is now believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made by this amendment and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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